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10/707,214	11/26/2003	Bruce Albrecht	ITW7510.073	1213
33647	7590	03/31/2008		
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ITW)				
136 S WISCONSIN ST				
PORT WASHINGTON, WI 53074				
EXAMINER				
MILLER, WILLIAM L				
ART UNIT		PAPER NUMBER		
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ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC
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In re application of	:	
Albrecht et al.	:	
Application No. 10/707,214	:	DECISION ON PETITION TO
Filed: November 26, 2003	:	REVIEW RESTRICTION
Attorney Docket No. ITW7510.073	:	REQUIREMENT UNDER
FOR: WELDING STUD	:	37 CFR 1.144

This is in response to the petition filed on October 18, 2007 for review of the restriction requirement mailed on May 15, 2007 and made final on September 18, 2007.

Applicant petitions for review of the restriction requirement and suitable remedy in the form of withdrawal of the restriction requirement.

The petition is **GRANTED**.

On May 15, 2007 a requirement for restriction was mailed between Group I, claims 1-17 and 25-29, a welding stud, and Group II, claims 18-24, a method of manufacturing. The examiner provided reasons for the restriction between Groups I and II.

In the examiner's reason for distinctness the two groups of claims were restricted as process of making and product made. The examiner indicated that the product could be made from casting instead of stamping or etching and that the process could be used to make other products such as a set-screw.

Applicants response filed on June 15, 2007 traversed the restriction requirement with the following arguments: 1) The examiner failed to show that the process of Group II required etching or stamping to form the welding stud of Group I and that the process of Group II could not also cover a casting process and 2) The method of making of Group II requires a welding stud, thus the process could not be used to make a set-screw.

With respect to the first argument, the examiner responded to the traversal by indicating that the grooves in the second end of the stud could be formed via casting as opposed to etching or machining as recited in claims 21 and 22. Although not providing a more clear distinction between Group I and Group II, the examiner did indicate that the groups were related as process of making and product made. Further, the specification provides no basis for claim 18

covering a casting process thus providing evidence to the distinction between Group I and Group II.

With respect to the second argument, the examiner seemingly conceded that the process could not be used to make a set-screw. The examiner also correctly pointed out that MPEP 806.05(f) did not require that the examiner to meet both conditions and the first condition had been met.

While not brought to point in the traversal of June 15, 2007, applicant argues in the petition filed October 18, 2007 that claims have been examined through the course of four (4) Office Actions, two (2) Advisory Actions, and two (2) RCE's and thus the examination of all of the claims cannot be considered to be a serious burden. Due to the lengthy prosecution and examination of claims 1-29, it cannot be seen how the continued examination of these claims can be considered a burden.

As a result, the restriction requirement mailed on September 18, 2007 is hereby vacated and the application is being returned to the examiner for consideration of claims 1-29 on the merits.

Any question concerning this decision should be referred to Supervisory Patent Examiner Jennifer Gay at (571) 272-7029.



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